

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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2006 JUN 27 A 10:55
U.S. DISTRICT COURT
DISTRICT OF MASS.

DOUGLAS ALBERT,
Plaintiff

v.

CITY OF CHICOPEE, et al
Defendants

C.A. No. 05-30008-MAP

JOINT PRETRIAL MEMORANDUM

1. Concise statement of the evidence:

Plaintiff expects the evidence to show that on May 3, 2004 he was apprehended by members of the Chicopee Police Department, and that in the course of apprehending Mr. Albert, defendant Chicopee Police Officer Michael Thomas instructed Mr. Albert to exit the vehicle and lie face down on the ground, at which time Officer Thomas violently stomped and/or kicked Mr. Albert. Mr. Albert further expects the evidence to show that as a direct result of the incident he was treated at Baystate Medical Center for a fractured nose, bruising of his right eye and for shoulder and neck injuries.

Plaintiff further expects to present testimony from Dr. Barry Jacobs (ENT physician) that Mr. Albert suffered "severe nasal deformity from nasal fracture." Mr. Albert was required to wear a nose guard for about a month and a half; had black eyes for a month; continues to experience sinus problems and septal deformity of his nose; and has scars on the outside of his bottom lip and the inside of his upper lip. He has unpaid medical bills of \$5,331.17. In addition to compensatory damages for physical and emotional pain and suffering, permanent injuries and scarring, Mr. Albert also seeks punitive damages and attorney's fees.

The defendant, City of Chicopee, expects the evidence to show that the City of Chicopee followed the applicable guidelines established by the Massachusetts Criminal Justice Training Council for training of its police officers. Furthermore, that the City of Chicopee provided adequate training, supervision, control and discipline of the Chicopee police officers.

The defendant, Michael Thomas, expects the evidence to that he never violently stomped or kicked the plaintiff and that in response to plaintiff's demeanor and conduct surrounding this incident, that if the defendant Thomas used force against the plaintiff, he used reasonable force, that his actions were justified, that he acted out of necessity, and that at all times acted in accordance with Massachusetts Criminal Justice Training Academy standards. The defendant Thomas also disputes the injuries alleged to have been suffered.

2. Statement of facts established by the pleadings:

On May 3, 2004 Mr. Albert was apprehended by officers of the Chicopee Police Department, including Officer Michael Thomas.

3. Contested issues of fact:

Liability of the defendants and the extent of plaintiff's alleged damages.

4. Jurisdictional questions:

None.

5. Any question raised by pending motions:

None.

6. Issues of law:

None.

7. Requested amendments to pleadings:

None.

8. Additional matters:

None.

9. Probable length of trial:

Jury trial lasting approximately three half days.

10. Name and addresses of witnesses and purpose of their testimony:

Plaintiff may call the following witnesses:

Douglas Albert
1 Brook Street
Ludlow, MA

Barry Jacobs, M.D.
2 Medical Center Drive
Springfield, MA

Michael Thomas
Chicopee Police Dept.
Chicopee, MA

Mr. Albert and Michael Thomas are expected to testify regarding the incident which is the subject of this lawsuit. Mr. Albert and Dr. Jacobs are expected to testify regarding the nature and extent of plaintiff's injuries.

The Defendant, City of Chicopee, may call the following witnesses:

Douglas Albert
1 Brook Street
Ludlow, MA

Officer Michael Thomas, Officer Joseph Brunelle, Officer Hamilton Wray, Officer William Lopes, Sergeant Roy Landry, Sergeant Patrick Major, Police Chief John Ferraro, Deputy Chief of Police Robert Gendron, all from the Chicopee Police Dept., 110 Church Street, Chicopee, MA. EMT Steven Tessier and EMT William Berge, both of the Chicopee Fire Department, 80 Church Street, Chicopee, MA.

Officers Thomas, Brunelle, Hamilton Wray, Lopes, Landry and Major are expected to testify to the circumstances surrounding this incident which is the subject of this lawsuit and Deputy Chief Gendron and Chief Ferraro are expected to testify to the training of the Chicopee police officers, as well as their supervision and compliance with the Massachusetts Criminal Justice Training Academy standards. EMTs Tessier and Berge are expected to testify to their observations of the plaintiff's demeanor and conduct surrounding this incident which is the subject of this lawsuit.

The Defendant, Michael Thomas, may call the following witnesses:

Douglas Albert
1 Brook Street
Ludlow, MA

Officer Michael Thomas,
Officer Joseph Brunelle,
Officer Hamilton Wray,
Officer William Lopes,
Sergeant Roy Landry,
Sergeant Patrick Major,
Police Chief John Ferraro,
Deputy Chief of Police Robert Gendron,
Chicopee Police Dept.,
110 Church Street,
Chicopee, MA.

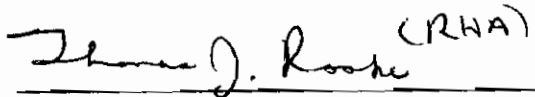
EMT Steven Tessier
EMT William Berge,
Chicopee Fire Department,
80 Church Street, Chicopee, MA.

Officers Thomas, Brunelle, Hamilton Wray, Lopes, Landry and Major are expected to testify to the circumstances surrounding this incident which is the subject of this lawsuit and Deputy Chief Gendron and Chief Ferraro are expected to testify to the training of the Chicopee police officers, as well as their supervision and compliance with the Massachusetts Criminal Justice Training Academy standards. EMTs Tessier and Berge are expected to testify to their observations of the plaintiff's demeanor and conduct surrounding this incident which is the subject of this lawsuit.

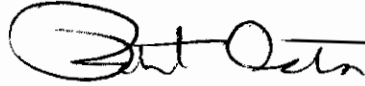
11. List of proposed exhibits to be offered at trial:

Plaintiff's exhibits are expected to include medical records, medical bills and photographs depicting plaintiff's injuries.

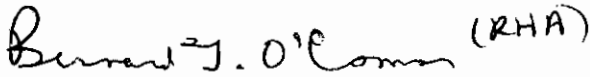
Respectfully submitted,

 (RHA)

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